

Members absent for more than four months.

Mr. A. B. Salem.—Before we resume the discussion, I rise to two points of order—very important from the non-official point of view. On page 21 of the Cochin Legislative Council Electoral Rules, Rule 22, sub-rule 2 says:

“If, for a period of four consecutive months, any member is unable to attend to the duties of his membership, Government may, by notification in the Gazette, declare that the seat in Council of that member has become vacant”.

My object in drawing your attention is also to draw the attention of the absent members that, if they are absent during this session, and have been absent during the last session, they will have to vacate their seats. We have got four months intervening before the next session would come, which is only in Karkadagam, so that between this session and the Karkadagam session, there will be four months, and if they did not attend during this session, they will have to vacate under this rule. Some members who were absent during the last meeting are not present at this meeting also, and I want to draw their attention to the fact that, if they do not come here for this session also, they will have to vacate their seats.

President.—But supposing a member is absent at this sitting, but was present at the last sitting, what is your opinion?

Mr. A. B. Salem.—Even then he has to forfeit his seat. There are six members absent, and if they do not come at least one day, they are liable to forfeit their seats. I want to draw the attention of the absent members to the fact.

President.—How can you draw their attention?

Mr. A. B. Salem.—The members present will draw their attention by writing to them or telegraphing to them.

President.—What is the other point?

Acceptance of Office by a non-official.

Mr. A. B. Salem.—The other point is that raised yesterday with reference to the Hon'ble Member for Trippunittura. I don't want that he should vacate his seat, but there is the provision in the rule which is imperative, and there is no option. Section 6 of the Regulation says that, if a non-official member accepts office in the service of the Government, his seat in the Council shall become vacant. That is in Regulation VIII of 1898. But my difficulty was whether the Court of Wards is an institution of the Government. It is entirely composed of a

Government body, and the service is payable by the Government. Thereby he becomes a Government servant. I want to draw your attention to it and to leave the matter there. If he is not a Government servant, then only he can be a member. Otherwise, he shall vacate, and his seat shall become vacant.

President.—What I want to point out is that the question has been raised, and is being considered, as to whether he is a Government servant within the meaning of that section.

Mr. A. B. Salem.—He has accepted an appointment under the gift of the Government.

President.—You say there is no room for doubt in this matter.

Dr. A. R. Menon.—Is he a Government servant in the sense of a Tahsildar or a Magistrate?

Mr. A. B. Salem.—Any person who accepts an office within the gift of the Government is *ipso facto* a servant of the Government.

President.—Is it not more proper that the question is considered in all its aspects?

Mr. A. B. Salem.—If his seat is vacant, then, of course, there are certain other constituencies. His seat is not vacated as yet. But under the rule there is nothing for him to be done but vacate. The mere fact that a non-official has accepted a Government appointment is enough to make him vacate his seat. Nothing further, no declaration from the Chair, is necessary to make his seat vacant.

President.—But the question is whether the office is one in the service of the Government.

Mr. A. B. Salem.—It is something which was published in the Gazette. People can, therefore, know that it is an office of Government. Of course, that is why I say that, if it is so, then all this procedure will be out of place. If it is not so, there is reason to doubt.

President.—But suppose we keep the matter pending and decide some day hence that he is a member of the Government, and as such, he is not entitled to sit in the Council; suppose we decide a case by an excess of one vote in which his vote is included: then what will be the consequence?

Mr. A. B. Salem. That is the difficulty. Then it will have to be reconsidered. There are so many conclusions. The other day a certain point was raised. When the Hon'ble Sur-

geon-General of Madras was present there, a particular fact was being considered. He was found sitting with the members of the Council, and the question was whether he could take his seat any more there. The Chairman, the Hon'ble President, ruled that he may sit there, but he should not take part in the votes. I bring that difficulty to your notice and leave the rest to the House.

Dr. A. G. Menon.—About the term in the Electoral Rules I brought to the notice of the Government a request that, instead of 4 months, the word 'months' may be removed and 4 or 3 consecutive meetings be substituted. Of course, I had to represent this in connection with the absence of my nephew, Dr. A. R. Menon. I have brought it to the notice of the Government, as it is not within my power to bring in any resolution on the subject.

President.—But is it not within the discretion of the Government?

Dr. A. G. Menon.—It is entirely within the discretion of the Government. We have nothing to do with it. We cannot bring any amendments or alterations. So, I draw the attention of the Government again.

Mr. K. Achyuta Menon.—Every one must vacate his seat, before the next meeting if this rule is enforced. For the budget session 4 months must elapse, namely, Meenam, Medam, Edavam and Mithunam, and every non-official member must vacate his seat according to this rule. But the question is whether we can have a period of 4 months intervening between two meetings, because this rule says that, if a member does not come to the Council for four consecutive months, he has to vacate his seat. And so it presupposes that within a period of 4 months there will be a meeting. Is the Government so unreasonable as to apply that rule where there is no meeting and to declare that they have forfeited their seats?

Mr. C. A. Ouseph.—This rule does not say anything like that. "Duties" are not defined anywhere. Suppose he sends a few questions. I suppose that is discharging his duty. There is absolutely no definition of the term.

President.—So that, I think, we can postpone the consideration of this question.

Mr. C. A. Ouseph.—Because the member is absent, it does not show that he is not discharging his duty.

127 **Mr. S. F. Nunez.**—That is stretching the law too much. That period of 4 months implies that we should have very frequent meetings, and as we see now, there are so many resolutions which we are not able to finish which will lapse before the budget session. Let us have one more meeting before the budget session.

Mr. George Chakyamuri.—That will be contracting the law too much, if the other is expanding.

President.—I think we had enough discussion on the point. Dr. A. R. Menon may continue his speech.

The Municipal Regulation Amendment Bill.

Dr. A. R. Menon.—Sir, I have been telling the Council that the objects aimed at by all Municipalities were two in number:—one is to look after the sanitary condition of the people living in the Municipality, and the second is to protect the rate-payers against the traders and others outside the Municipal limits. Now, Sir, the mover has raised certain objections. What are they? The first objection that he raised was that a place like Trichur or Ernakulam is not like Madras or Bombay or any other big town. But we have evidence to prove that it is not only in Bombay and Madras, but also in other mofussil towns, even in towns of the size of Trichur, that these provisions of the Regulation are enforced. The second point he raised was that we had plenty of space for sanitary purposes within the Municipal areas. That is beside the point. It is not a question of want of space. It is to protect the Municipal people from infection from outside, also from unfair competition from the traders outside. The majority of the people who are influential and at whose instance the Bill had been brought forward are not concerned with the sanitary question. They are interested only in the commercial aspect of the question.

Another point raised was that, according to the democratic system of Government, he who pays the tax has a right to the vote and a right also to associate himself with the governing body. But, Sir, this is not a tax in the sense of a house-tax. It is a license. In other words, it is what is called an indirect tax. The tax is levied not upon the shop-keeper, but upon the man who consumes. It is collected from him through the agency of the shop-keeper. The house-tax is generally collected by the Municipality, whereas, in the case of the licensing fee, the Municipal authorities are not expected to go to the licensee and collect the fee. The Municipality will see that nobody runs a